



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Scott A. Sinder, Esq.  
Steptoe & Johnson LLP  
1330 Connecticut Ave., NW  
Washington DC 20036  
ssinder@steptoe.com

JUL 14 2017

RE: MUR 7256  
The Council of Insurance Agents &  
Brokers PAC and Ken Crerar in  
his official capacity as treasurer

Dear Mr. Sinder:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") became aware of information suggesting your clients, The Council of Insurance Agents & Brokers PAC and Ken Crerar acting in his official capacity as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On June 22, 2017, the Commission found reason to believe that your clients violated 52 U.S.C. § 30104(b)(3) and (4). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is enclosed for your and your clients' information.

In addition, please note that you and your clients have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified in writing that the Commission has closed its file in this matter. See 18 U.S.C. § 1519. This matter will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) unless you notify the Commission in writing that your clients wish the matter to be made public. Please be advised that, although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.<sup>1</sup>

In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to your clients as a

---

<sup>1</sup> The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

# 1. Introduction

# 1. Introduction

# 1. Introduction

# 1. Introduction

# 1. Introduction

# 1. Introduction

# 1. Introduction

# 1. Introduction

# 1. Introduction

1  
2  
3  
**FEDERAL ELECTION COMMISSION  
FACTUAL AND LEGAL ANALYSIS**

4 **RESPONDENT:** The Counsel of Insurance Agents & Brokers PAC **MUR 7256**  
5 and Ken A. Crerar in his official capacity as treasurer  
6

7 **I. INTRODUCTION**

8 The Commission's Reports Analysis Division ("RAD") referred The Council of  
9 Insurance Agents & Brokers PAC and Ken A. Crerar in his official capacity as treasurer  
10 ("Committee") for failing to timely disclose two related transactions concerning a transfer of  
11 Committee funds in the amount of \$700,000. The Committee acknowledges that the transactions  
12 occurred as the result of mistakes by accounting staff, and that it did not report the transactions  
13 until the issue was brought to the attention of the Committee's treasurer after an audit.

14 Based on the available information, the Commission finds reason to believe that the  
15 Committee violated 52 U.S.C. § 30104(b)(3) and (4).

16 **II. FACTS**

17  
18 The Committee is a separate segregated fund of The Council of Insurance Agents &  
19 Brokers ("Council").<sup>1</sup> On December 10, 2015, Alicia Anderson, the Council's Controller and  
20 the Committee's Custodian of Records, transferred \$700,000 from the Committee to the  
21 Council's operating account to meet an impending cash shortfall at the Council.<sup>2</sup> According to  
22 Anderson's declaration, she knew there were other accounts and assets that could have been used  
23 to cover the shortfall, but she transferred funds from the Committee's account because she

---

<sup>1</sup> The Council of Insurance Agents & Brokers Political Action Committee, Statement of Organization (filed March 29, 2009), <http://docquery.fec.gov/pdf/449/29933398449/29933398449.pdf>.

<sup>2</sup> Resp., Dec. of Anderson (Jan. 30, 2017).

1 believed doing so was “easiest.”<sup>3</sup> On January 8, 2016—29 days later—Anderson transferred  
2 \$700,000 from the Council’s operating account back to the Committee.<sup>4</sup> The Committee did not  
3 report these transactions on its 2015 Year-End or 2016 February Monthly Reports to the  
4 Commission, which Anderson prepared.

5 The Committee’s treasurer learned of these transactions following the Council’s annual  
6 audit, and on May 20, 2016, the Committee filed an amended 2015 Year-End Report and an  
7 amended 2016 February Monthly Report denoting the \$700,000 “mistaken disbursement.”<sup>5</sup> On  
8 September 7, 2016, RAD sent the Committee requests for additional information (“RFAI”)  
9 seeking explanations for the increased activity.<sup>6</sup> On October 5, 2016, and November 2, 2016, the  
10 Committee filed Form 99 Miscellaneous Reports explaining that the increased activity was the  
11 result of accounting mistakes made without the Treasurer’s knowledge or authorization, the  
12 Committee had amended its reports, and it implemented remedial measures to prevent similar  
13 mistakes in the future.<sup>7</sup> On January 10, 2017, RAD referred the matter to the Office of General  
14 Counsel.

---

<sup>3</sup> *Id.* at ¶ 6.

<sup>4</sup> *Id.* at ¶ 8.

<sup>5</sup> The Council of Insurance Agents & Brokers Political Action Committee, 2015 Year-End Report, Amended (filed May 20, 2016), <http://docquery.fec.gov/pdf/157/201605209015991157/201605209015991157.pdf>; February Report, Amended (filed May 20, 2016), <http://docquery.fec.gov/pdf/226/201605209015991226/201605209015991226.pdf>.

<sup>6</sup> The Council of Insurance Agents & Brokers Political Action Committee, Request for Additional Information regarding 2015 Year-End Report (Sept. 7, 2016), <http://docquery.fec.gov/pdf/091/201609070300058091/201609070300058091.pdf>; The Council of Insurance Agents & Brokers Political Action Committee, Request for Additional Information regarding 2016 February Monthly Report, (Sept. 7, 2016), <http://docquery.fec.gov/pdf/089/201609070300058089/201609070300058089.pdf>.

<sup>7</sup> The Council of Insurance Agents & Brokers Political Action Committee, FEC Form 99 (Oct. 5, 2016), <http://docquery.fec.gov/pdf/837/201610059032169837/201610059032169837.pdf>; The Council of Insurance Agents & Brokers Political Action Committee, FEC Form 99, (Nov. 2, 2016), <http://docquery.fec.gov/pdf/599/201611029037018599/201611029037018599.pdf>.

1 In the Committee's response to the referral, it reiterates that the Treasurer was unaware of  
2 the two transactions and would not have authorized them if he had known of them.<sup>8</sup> It  
3 characterizes the transfers as "an innocent mistake," and it details the safeguards the Committee  
4 voluntarily implemented to prevent recurrences.<sup>9</sup> These safeguards include: (1) removing the  
5 ability to make online transfers from the Committee's account; (2) allowing only the Treasurer  
6 and a newly appointed Assistant Treasurer to sign checks from the account in the future; and  
7 (3) having staff from the Committee and the Council undergo training with outside counsel  
8 regarding proper disclosure and use of accounts.<sup>10</sup>

9 **III. LEGAL ANALYSIS**

10 Under the Federal Election Campaign Act, as amended, the "treasurer of each political  
11 committee shall file reports of receipts and disbursements."<sup>11</sup> Such reports must include the  
12 identification of each person who makes a contribution in excess of \$200 and each person to  
13 whom a disbursement is made in excess of \$200.<sup>12</sup> Under the monthly filing schedule, which the  
14 Committee has elected under 52 U.S.C. § 30104(a)(4)(B), such reports are due on the 20th day  
15 after the end of the month.

16 The Committee failed to timely report the \$700,000 disbursement in its 2015 Year-End  
17 Report or the receipt of the same amount in its 2016 February Monthly Report. Although the  
18 Committee voluntarily amended its reports, it reported the \$700,000 disbursement four months

---

<sup>8</sup> Resp. at 1.

<sup>9</sup> *Id.*

<sup>10</sup> Resp., Dec. of Crerar.

<sup>11</sup> 52 U.S.C. § 30104(a).

<sup>12</sup> See 52 U.S.C. § 30104(b)(3)(A), (b)(5)(A); 11 C.F.R. § 104.3(a)(4), (b)(3).

- 1 late and the \$700,000 receipt three months late. Accordingly, the Commission finds reason to
- 2 believe that the Committee violated 52 U.S.C. § 30104(b)(3) and (4) by failing to timely disclose
- 3 its disbursement and receipt of the \$700,000 transfer.<sup>13</sup>

---

<sup>13</sup> The factual record also indicates that the Council's transfer of the \$700,000 from its operating account to the Committee's account could be a prohibited contribution under 52 U.S.C. § 30118(a) and that the Council's Controller made the transfer without the authorization of the treasurer as required by 52 U.S.C. § 30102(a). Nevertheless, we believe that there are a number of mitigating factors that counsel in favor of not pursuing these issues. First, the purpose of the Council's transfer of funds was made to remedy the initial disbursement made by the Committee in error. In addition, other factors include the voluntary disclosure of the activity, the strong remedial measures the PAC adopted, and the fact that the contribution at issue was a one-time occurrence.